

Draft -- 1/27/69

BILL C-147

"An Act to control the tar and nicotine level of cigarettes." December 18, 1968. Mr. Howe.

This bill is premised on erroneous assumptions, as will be shown.

This being so, the measure could seriously mislead the public, would be a precedent-setting interference with free choice of consumers, and would also constitute a setback to continued research on smoking and health questions.

The proposals contained in this bill have been generated by misunderstanding about the meaning of so-called "tar" and the significance of nicotine.

The bill's preamble states: "...it has been scientifically established that the tar and nicotine content in cigarettes constitutes a serious health hazard."

This is an incorrect statement as the facts will show.

ASSUMPTIONS AND COMMENT:

1. Assumption: That the tar and nicotine in cigarettes are injurious.

Comment: It has not been proven that cigarettes cause disease. There is no satisfactory explanation of how cigarettes are purported to be "injurious." Nicotine has been shown to represent "no significant health hazard." There is no "tar" in cigarettes. This term being used to designate smoke solids. No relationship to health has been proved.

2. Assumption: That banning high tar and nicotine cigarettes will cause less of these substances to be "used" by Canadians.

Comment: Lower-yield cigarettes may on the contrary increase the number of cigarettes consumed per capita, increase intensity

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of smoking, increase frequency of draw, and lead consumers to smoke cigarettes to shorter butt lengths. These possibilities should be considered before compelling smokers by law to smoke set-yield cigarettes.

Government banning of some cigarettes but not others implies that those allowed to remain on the market are safe. This inference by the public could increase cigarette consumption and even encourage smokers.

3. Assumption: That there are no significant adverse implications to the ban, or that they are outweighed by Assumption 2.

Comment: In order to make the low-yield cigarettes presently on the market, special blending is required. Only a limited amount of low-yield tobacco is available from the Canadian crop, which is almost entirely supported by Canadian manufacturers. Hence a substantial proportion of the Canadian crop would be useless. The result would be serious economic disruption for the farmer, as well as for companies, employees, stockholders, suppliers, and all directly or indirectly dependent on them.

How many consumers would dislike the modified cigarettes is impossible to predict, but the number might be large. The result might well be large-scale smuggling of United States brands, with concomitant tax losses to Canada. Such smuggling is already a serious problem in New York State, though for different reasons.

More detailed discussions of these facts are presented in the following.

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ASSUMPTION 1.

The bill's preamble states "...it has been scientifically established that the tar and nicotine content in cigarettes constitutes a serious health hazard."

A. Nicotine. Simply stated, nicotine is a pharmacologically active ingredient of tobacco (and apparently only of tobacco). It is believed to be, and has been shown in experiments to be, the substance that may provide both a "lift" -- stimulation -- and relaxation to users of tobacco. Nicotine is absorbed in tiny quantities into the systems of tobacco users whether they chew tobacco or use snuff, or whether they smoke cigars, pipes or cigarettes. It is rapidly metabolized and eliminated from the system.

It is difficult to generalize about nicotine because amounts of it may vary considerably within the same types of tobacco as well as among different types of tobacco. However, available evidence indicates that cigarette smokers probably do not get more nicotine, and indeed may often get less, than do regular cigar or pipe smokers or other users whose mortality rates in statistical studies are quite similar to those of nonsmokers.

It is for this, and other cogent reasons, that the U.S. Surgeon General's Advisory Committee Report on Smoking and Health of 1964 (which is cited by the Canadian Department of National Health and Welfare) concluded that:

"In view of the mortality ratios of pipe and cigar smokers, it follows logically that the apparent increase in morbidity and mortality among cigarette smokers relates to exposure to substances in smoke other than nicotine...nicotine in quantities absorbed from smoking and other methods of tobacco use is very low and probably does not represent a significant health problem."

Continued studies since that time have not produced any evidence that would alter this conclusion.

Thus, it is clear that it has not been "scientifically established" that nicotine "constitutes a serious health hazard," as is stated in the preamble of C-147. There would appear to be no justification for labeling or limiting the

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B. So-called "Tar." First, it is necessary to understand that there is no "tar" in cigarettes. This may be surprising to those who have heard this term and have seen government and other figures purporting to show "tar" content. Actually, "tar" is a convenience term to designate smoke condensates that may be collected by laboratory methods from cigarette smoke. These condensates are a complex mixture of many compounds and may be collected from the smoke of any burning organic matter. They vary in chemical composition, depending upon the kind of tobacco burned, the manner in which they are collected, and other factors. The main point is that "tar," as the term is used in referring to cigarette smoke condensates, is not a single, identifiable, homogenous substance.

It is impractical to discuss here the complex mixtures found in cigarette smoke condensates. And it is unnecessary also because it is a fact that no scientist has been able to identify a substance, or combination of substances as found in the condensates, that can account even for the biologic responses when the condensates are painted in heavy concentrations on the skins of mice.

Attention has been given to the condensates, or "tar," because of these bioassays. The experiments have resulted in the induction of skin cancers on some of the test animals (the numbers of tumors resulting vary in different experiments) but so have a number of other substances when tested in a similar manner, such as, for example, the oil of citrus fruits.

The results from the smoke condensate experiments, which are far greater than would be expected from what is known about the material in the condensates, actually emphasize what the Surgeon General's report called a "gigantic problem for exploration." It is still being explored by many scientists without a solution.

It is important to remember that the condensates, "tar," are a laboratory product and do not occur as such in cigarette smoke, although they are derived from a part of the smoke. When whole cigarette smoke (rather than condensates) has been tested on animals, primarily in inhalation experiments, no lung cancers

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attributable to the smoke have resulted. One experimental scientist who has long been working on the problem, Dr. Ernest L. Wynder, wrote in 1963: "Cigarette smoke as a cause of squamous-cell lung cancer has yet to be experimentally established."

Thus it can be stated that it has NOT been scientifically established that the "tar" in cigarettes "constitutes a serious health hazard."

Legislation designed to set maximum yields of "tar" is not justified on health grounds.

C. Measurements of "Tar" and Nicotine. A logical question is: What significance is there to levels or amounts of "tar" and nicotine reported in cigarettes?

The answer is simple: Very little from a sound, scientific standpoint.

Attention to such measurements has resulted almost entirely from the efforts of those opponents of smoking who theorize the figures are an indication of the smoke taken in by a smoker. Even this is of doubtful validity, since the figures are derived by machines smoking cigarettes in a set pattern to some pre-determined butt length. Smokers vary greatly in the frequency and intensity of their puffing and the amount of each cigarette they smoke. Thus there may be little relation between the figures reported and the actual exposure of any given smoker with any given cigarette.

However, publicity given to the figures has led to a demand by some smokers for filter tips to deliver lower yields of "tar" and nicotine.

Canadian cigarette companies have responded to the demand because they strive to give the customer what he wants and were able to do so in this case. By reducing smoke solids and other components in the smoke, filtration apparently produces a more acceptable or desirable smoke for some smokers.

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The companies make no health claims for filter cigarettes that have reduced yields of "tar" and nicotine. Such cigarettes are made to meet consumer demand.

If smokers want filter cigarettes with lower "tar" and nicotine yields, the Canadian cigarette industry will continue to supply them. But the cigarette companies should be able to make other types of cigarettes to satisfy those people who want them.

The government should consider well whether it can honestly inform smokers, either directly or by implication, that cigarettes with low "tar" and nicotine yields are significant in terms of health risks. Legal sanction to such figures or to specific levels of yield could give smokers a false but official assurance of safety. Scientific evidence for any such implication is lacking.

Bill C-147 would give such official legal sanction to this false concept.

ASSUMPTION 2. Banning high tar & nicotine cigarettes will cause less of these substances to be "used" by Canadians.

A. Individual Smoking Habits. It is possible that compelling smokers to use low "tar" and nicotine yield cigarettes may lead them to smoke more cigarettes. Or it may result in their puffing more frequently or to smoking cigarettes to shorter butts. In any case, there is no evidence that the assumed end result will actually occur, whether or not it is desirable.

B. Implied Safety. If the government is to engage in banning products it usually is because the products are proved dangerous. If the government bans some cigarettes, those cigarettes which are not banned would be perceived by the public as not dangerous, or perceived as safe cigarettes.

Government action in banning some cigarettes provides an implied government endorsement of those not banned. Otherwise why were the surviving cigarettes also not banned?

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Thus, people could relax and smoke more cigarettes on the assumption that any alleged danger to health has been "cleaned up."

C. Lack of Standards. Several problems are involved in establishing a ban on cigarettes yielding above set levels of "tar" and nicotine.

First, it is not logical to have a double or triple standard -- one maximum level for plain, another lower for 100 mm, another for filter, etc. Such a double standard could cause a filter cigarette to be banned which had a lower "tar" and nicotine content than a plain cigarette which was permitted to be sold.

Second, the "tar" and nicotine yield figures are obviously affected by the amount of tobacco smoked in the test as well as by filters. A very short cigarette might deliver high "tar" and nicotine per puff but a low total for the whole cigarette. A slim cigarette could deliver high "tar" and nicotine per puff but less "tar" and nicotine in total than a normal thickness cigarette of equal length. The obvious conclusion is that a smoker might well simply light up another cigarette to get the number of puffs he wants. Maximum levels might merely result in short (or slim) high "tar" and nicotine cigarettes.

(supporting data to come)

ASSUMPTION 3. That there are no significant adverse implications to the proposal.

A. Agricultural. In order to make the low-yield cigarettes presently on the market, special blending is required. Only a limited amount of low-yield tobacco is available from the Canadian crop, which is almost entirely supported by Canadian manufacturers. If maximum yields were set by law, this might well limit the number of cigarettes produced, unless enough suitable tobacco could be imported to meet the demand. In either case, a substantial proportion of the Canadian crop would be useless. The result would be serious economic disruption for the farmer, as well as for companies, employees, stockholders, suppliers, and all directly or indirectly dependent on them.

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B. Precedent. Cigarettes cannot be shown to be a direct, immediate, well-proven danger, nor is there a strong prejudice against their use. Thus a ban on types of cigarettes would be an extension of government action into a new area.

If a product like cigarettes, whose danger if any is long-range or unproven, is to be banned, it would be equally logical to extend bans on such products as high fat meats and dairy products, sugars, and high starch vegetables, all of which are believed by some scientists to be long-term dangers to some or many consumers.

At the present time, any such move would be both an unwarranted intrusion upon the consumer's rights, and cause of severe and unjustifiable economic dislocation to the producers, processors, shippers and sellers of the product involved. Such a ban on cigarettes today would make bans on other products easier tomorrow.

C. Differential Effect. While a ban on high tar and nicotine yields might not significantly alter total cigarette consumption, but it certainly would affect the relative positions of brands and companies within the industry. The government would, in effect, find itself penalizing one company and increasing the advantage of another.

If "tar" and nicotine maxima were combined with other restrictions on cigarette advertising and promotion, this would tend to freeze company shares of the market at the new level. A company which had lost ground would be unable to take the usual steps to regain it.

Either outcome would put the government in the position of having arbitrarily determined the earnings of companies, stockholders, employees, and everyone directly or indirectly dependent on them.

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